



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

F.1
3/4/2000

MAR 15 2000

REPLY TO THE ATTENTION OF

VIA CERTIFIED MAIL and TELEFAX
RETURN RECEIPT REQUESTED

ACS RD/RA Executive Committee
c/o Barbara A. Magel, Esq.,
Karaganis & White
414 North Orleans Street, Suite 810
Chicago, IL 60610

EPA Region 5 Records Ctr.



267417

RE: American Chemical Service, Inc. (ACS) Site, Griffith, Indiana
General Notice of Potential Liability

Dear Ms. Magel:

As Chairperson of the ACS RD/RA Executive Committee, representing a group of potentially responsible parties (PRPs) for the American Chemical Service, Inc. ("ACS") Superfund site (ACS PRP Group or "Group"), please be advised and relay to your Group's members that the United States Environmental Protection Agency (U.S. EPA or "we")) has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the (ACS) facility, and is planning to spend public funds to investigate and control these releases. We will take this action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 *et seq.* (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (SARA), unless we determine that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the facility, persons who generated the hazardous substances, and persons who were involved in the transport, treatment, or disposal of the hazardous substances at the facility. Under Section 107(a) of CERCLA, where U.S. EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the facility, including investigation, planning, and enforcement costs.

U.S. EPA is currently planning to conduct the following actions at the ACS facility:

1. Excavation, removal, and overpacking of buried drums located on the ACS site near the oil pipeline.

2. Excavation and consolidation in an area on-site of visually contaminated soils, if any, associated with the removal of these buried drums. The soils consolidation area will be located in an area where the temporary and/or final site soil cover(s) will be placed by the ACS PRP Group under the pending Consent Decree.
3. The temporary storage of the excavated and overpacked drums in a suitable area of the ACS site for final disposition by the ACS PRP Group along with the estimated 400 to 2000 drums now on-site that the Group will be removing and properly disposing of off-site in accordance with the pending Consent Decree.

U.S. EPA has received information that the ACS PRP Group members may have owned or operated the ACS facility or generated or transported hazardous substances that were disposed of at the ACS facility. By this letter, we notify the Group members of their potential liability with regard to this matter and encourage them to, in their capacities as potentially responsible parties, agree to reimburse U.S. EPA for costs incurred to date and to voluntarily perform or finance the above response activities which we have determined or will determine are required at the ACS facility. U.S. EPA is willing to discuss with you, and/or other representatives of the Group members, the entry of an appropriate administrative consent order under which the Group members would perform or finance the above response activities and reimburse U.S. EPA for its costs. If a consent order cannot be promptly concluded, we may issue a unilateral order under Section 106 of CERCLA, requiring the Group members to perform specified work. Under Sections 106 and 107 of CERCLA, the ACS PRP Group members may be liable for reimbursement of U.S. EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order.

Because of the conditions described above, we believe that response activities at the ACS site must be initiated as quickly as possible. Therefore, U.S. EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As the representative of the ACS PRP Group, please notify U.S. EPA in writing within five (5) days of receipt of this letter of the Group's willingness to perform or finance the activities described above and to reimburse U.S. EPA for its costs. Your response should be sent to:

Michael J. McClary
U.S. EPA - Region 5
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604-3590

If we do not receive a timely response, we will assume that the ACS PRP Group does not wish to negotiate a resolution of its potential responsibility in connection with the

above matters at the ACS facility and that the ACS PRP Group has declined any involvement in performing the above response activities.

Your response should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with State or local authorities or involved in a lawsuit regarding the ACS facility, you may continue such activities as you see fit. This letter is not intended to advise you or direct you presently to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

If you need further information regarding this letter, you may contact Michael McClary, Associate Regional Counsel, at (312) 886-7163.

Due to the nature of the problem at this facility and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard C. Karl".

for Richard C. Karl, Chief
Emergency Response Branch

bcc: M.McClary, C-14J
W. Simes, SE-5J
J. Maritote, SE-5J
K.Adler, SR-6J
T.Lesser, P-19J
M.Chezik, Department of the Interior
Alicia Corley, SETS (OS505)
Tony Audia, MF-10J
Records Center, SMR-7J
ERB Read File